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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,016	05/19/2006	Manuele Caon	1340-034	3963
47888 7590 07/11/2008 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER SANTOS, ROBERT G				
ART UNIT 3673		PAPER NUMBER		
MAIL DATE 07/11/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,016

Applicant(s)

CAON, MANUELE

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 85/02987 to Haapasalo. As concerns claim 1, Haapasalo shows the claimed limitations of a bed plane comprising a plurality of slats (2) arranged transversely along at least a portion of a frame (1, 13) of the bed plane and connected to the bed through slat-holders, and having a series of stems or pistons (14) where each is connected with one or more of the slats and each stem or piston is associated with at least one respective elastic sliding element (6), each stem or piston being fixed to at least one first pulley or sliding guide (3, 5) for the transmission of motion, which occurs due to the interposition of flexible members (4) that are connected to the frame, so that the stems or pistons react to the pressures exerted by a body lying down on the bed plane, and compensate for the sinking created by the parts of the body between the shoulders and the pelvis with an upward thrust (as shown in Figures 1-3 and as described on page 4, lines 14-29 and on page 5, lines 1-3). With regards to claim 2, the reference further discloses a condition wherein the frame comprises a central bearing body (1, 13) from which the stems or pistons project and the slats are connected to the top end of the stems or pistons through balancing joints (17), the slats being arranged transversely to the plane (see Figures 2, 3, 5 & 7; page 5, lines 27-29 and page 6, lines 1-7). As

concerns claim 3, the reference is considered to show a condition wherein the stems or pistons (14) are connected at the top to a support beam (16) which is in turn connected to a pair of flexible slats (2) through balancing joints (17) in Figures 2, 5 & 7 and on page 7, lines 12-18. With regards to claim 4, the reference discloses a condition wherein each stem or piston has a vertical excursion which allows the bed plane to adapt to the anatomy of the body independently of the weight and configuration of the person lying down on it so that the lowering of one or more slats or portions thereof corresponds to the raising of other slats of the bed plane (see Figures 2, 3, 5, 7 & 8). As concerns claim 5, the reference is considered to show a condition wherein the frame is constructed in an underlying position and is smaller in size than the slats and in which the slats define the perimeter of the bed plane in Figure 1. With regards to claim 6, the reference further discloses a condition wherein the bed plane includes the use of pulleys of sliding guides (3) for the transmission of motion each being fixed to the top end of the frame and arranged at a predetermined distance between one stem and the next stem (see Figure 2). As concerns claim 7, the reference is considered to show a condition wherein the stems or pistons are arranged in a central portion of the frame and/or the bed plane in Figure 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haapasalo '987 in view of Swiss Pat. No. 663339 to Fehlmann. Haapasalo discloses the use of a single flexible member (4) on each side (as shown in Figures 1 & 2 and as described in the last line of page 3 and on page 4, lines 1-4) but does not specifically disclose a condition wherein the bed plane has articulated portions. Fehlmann provides the basic teaching of a bed plane comprising a plurality of slats (4) and articulated portions (1, 3). The skilled artisan would have found it obvious at the time the invention was made to provide the bed plane of Haapasalo with articulated portions in order to provide enhanced user comfort and support.

Response to Amendment

In response to Applicant's arguments on pages 5 and 6 of his amendment with respect to the Haapasalo '987 patent, the examiner respectfully asserts that Haapasalo discloses the structural limitation of at least one respective elastic sliding element (6) associated with each stem or piston (14), since the at least one sliding element shifts in response to the pressure exerted by a body positioned on the bed plane and is operatively connected to all of the stems of pistons as clearly shown in Figures 1 & 2 and as described on page 4, lines 14-29 and on page 5, lines 1-3 (see also page 9, line 27). Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974). Hence, the prior art rejections of claims 1 through 7 have been respectfully maintained.

Lastly, Applicant's arguments on page 6 of his amendment concerning the Haapasalo '987 and Fehlmann '339 references are of no consequence as these arguments attack the Haapasalo and Fehlmann patents individually. Where the rejection is a combination of

references, Applicant(s) cannot show unobviousness by so attacking the references. *In re Young et al.*, 56 CCPA 757, 403 F.2d 754, 159 USPQ 725. Accordingly, the prior art rejection of claim 8 has also been respectfully maintained.

Allowable Subject Matter

5. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that one of ordinary skill in the art would not have found it obvious at the time the invention was made to replace the elastic interconnecting band (6) of Haapasalo '987 with a spring which surrounds the stems or pistons or with an elastic element that is arranged between the top end of the frame and a support block of the pulley as recited in dependent claims 9 and 10 respectively.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Monday through Friday, 11:00 a.m. to 7:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert G. Santos/
Primary Examiner, Art Unit 3673